



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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## **MEMORANDUM**

**Date:** February 18, 2015

**To:** Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

**From:** Donna Pohli, Assistant Planner

**Subject:** **Stephen and Eileen Prevost (petitioners) and Jonathan and Shayla Anderson (owners)** – Special Exception under Section 2.02.1(B)(2) of the Zoning Ordinance to permit an Accessory Dwelling Unit (ADU) in the R (Residential) and Aquifer Conservation Districts located at 3 French Court. Tax Map 6B, Lot 087-070. Case # 2015-07.

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The following information is provided to aid in your consideration of the above referenced case. Additional background, and application materials, is included in your packet.

### **Background:**

The petitioner seeks to build onto their home to accommodate 924 sq.ft. of heated living space for use as an Accessory Dwelling Unit (ADU), as well as a two car garage, staircase, and storage room at 3 French Court. According to the petitioner's floor plan, the ADU will consist of one bedroom, bath, living room/dining room, kitchen, office (which is not permitted in an ADU), laundry room, and two walk in closets with an internal connection to the hallway that goes into the Principal Dwelling Unit's (PDU) dining room via French doors. Pursuant to Section 2.02.1(B)(2) of the Zoning Ordinance, the petitioner seeks a Special Exception. The subject property is located at 3 French Court (Tax Map 6B, Lot 087-070) in the R (Residential) and Aquifer Conservation Districts. The lot upon which the home exists contains approximately 0.942 acres.

According to the Assessing database, the existing three bedroom split entrance style single-family home contains 2,099 sq. ft. of gross living space (including 891 sq. ft. of below grade finished basement). The petitioner's application indicates 924 sq. ft. of heated living space within the accessory dwelling unit. Based upon this information, the ADU represents approximately 44% of the heated living space of the existing PDU. The ADU is proposed to be located on the first floor attached to the opposite end of the existing one car garage over a proposed two car garage addition. According to the elevation plan, there appears to be an egress proposed to the backyard via the deck.

The Planning and Zoning Administrator has determined that the proposed office constitutes a second bedroom in an Accessory Dwelling Unit (ADU) (please refer to floor plan in your packet) and is therefore a violation of the ADU criteria (criterion #6 in enclosed ADU application). At this time, Staff recommends that if the Petitioner is willing to modify the floor plan to eliminate the office or reconfigure the kitchen area to have an office area with either no interior walls or walls with reduced height making the office area open, then a variance would not be required. *However, if the petitioner does not wish to modify the floor plan, then a variance would need to be applied for and a second hearing would need to be held. In that case, staff suggests that the Board table the Special Exception request until a variance is obtained by the petitioner.*

While the application does not discuss the additional driveway, having two garages on either end of the house with two different driveways would require a right-of-way permit from the Public Works Department. The application also states that adequate parking is provided in the proposed garage. The application states that the ADU “will remain dependent on the principal dwelling unit by sharing the utilities, driveways, garages, yard, and deck areas, etc.”

**Standard of Review:**

It is the burden of the Petitioner to demonstrate, to the satisfaction of the Board, that the conditions for the granting of a Special Exception, under Section 2.02.1(B)(2) of the Zoning Ordinance, have been satisfied. Please also note that it has been the policy of the Board, in granting such an Exception, to require the recording of customary covenants regarding occupancy of the ADU by family members, as a condition of the Board’s approval.

**Should the Board vote to grant the request for the Special Exception, Staff recommends that approval be conditioned upon the following:**

1. Execution of Declaration of Covenants for the Accessory Dwelling Unit (form will be provided by Staff);
2. Since the applicant is creating an additional driveway and curb cut, a right-of-way permit is required from the Public Works Department prior to any building permits being issued; and
3. Payment of the Hillsborough County Registry of Deeds recording fee for recording of the Declaration of Covenants for the Accessory Dwelling Unit.

Ec: Stephen and Eileen Prevost, Applicant  
Jonathan and Shayla Anderson, Owner  
Carol Miner and Fred Kelley, Building Department  
Captain John Manuele, Merrimack Fire Department  
Kyle Fox, P.E, Public Works Department

Cc: File  
Correspondence